

## LABOUR DEPARTMENT

The 4th July, 1980

No. 11(112)-80-3Lab/8354.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Bhartya Electricals Steels Ltd., Mathura Road, Faridabad.

BEFORE SHRI I.P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
FARIDABAD

Reference No. 35 of 1979

*Between*

SHRI JOGINDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S BHARTYA ELECTRICAL  
STEELS LTD., MATHURA ROAD, FARIDABAD

*Present.*—Shri Amar Singh Sharma, for the workman.  
Shri K.P. Aggarwal, for the respondent management.

## AWARD

This reference No. 35 of 1979 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. FD/175-79/150360, dated 28th November, 1979, under section 10 (i) (c) of the Industrial Disputes Act 1947, for adjudication of the dispute existing between Shri Joginder Singh, workman and the management of M/s Bhartya Electricals Steels Ltd., 13/4, Mathura Road, Faridabad. The term of the reference was :—

Whether the termination of service of Shri Joginder Singh was justified and in order? If not, to what relief is he entitled?

After receiving this reference notices were issued to both the parties and both the parties appeared before this Court. The parties filed their pleadings and on 7th February, 1980, the following issues were framed by my predecessor.

1. Whether this dispute is not covered under I.D. Act. Hence bad in law?
2. Whether this workman was working in supervisory capacity and taking more than Rs. 500 as wages?
3. Whether the termination of services of the workman is justified and in order? If not, to what relief is he entitled?
4. Whether the workman was employed in managerial capacity?

No other issue was pressed or prayed for by the parties. Issue No. 1, 2 & 4 was ordered to be treated as preliminary issues and those were to be decided first. The case was fixed for 20th February, 1980, for the evidence of the parties. On 20th February, 1980, the management produced Shri S.L. Naidu, Senior Engineer of the Factory, as M.W.I and closed its case, while the workman appeared as his own witness and the evidence of the workman was also closed on the same day, after recording his statement. The case was then adjourned to 21st February, 1980, for arguments. On 21st February, 1980, both the parties requested for adjournment which was granted and 26th February, 1980, was fixed for hearing of arguments.

On 26th February, 1980, arguments were heard by my learned predecessor and he fixed 18th March, 1980, for orders, in the mean time Shri Gurmeh Parkash Bishnoi, the then Presiding Officer, Labour Court, Faridabad, resigned and had gone and the charge was taken over by Shri Nathu Ram Sharma, but on 18th March, 1980, he adjourned the case for 25th March, 1980. On 25th March, 1980, I took over a little before noon when the case came before me. Although arguments had been heard in this case by the then Presiding Officer, but no award had been sent to the Government. Secondly the representative of the management brought it to my notice that the representative of the workman was not present. I ordered him to be summoned for 17th April, 1980, for appearance on which date I was on leave and the case was again fixed for 28th April, 1980 for appearance of the parties. The representative of the parties appeared on 28th April, 1980 and then the case was fixed by me for hearing of arguments again for 14th May, 1980. On 14th May, 1980, I heard the arguments. My award issue-wise after hearing the arguments of the parties is an under:—

## Issue No. 2.

I take up issue No. 2 first. Because on issue No. 2 it is not disputed that Shri Joginder Singh applicant claimant was appointed,—*vide* Ex. M-1/A appointment letter as a Foreman. It has been conceded at the bar by the representative of the workman that a foreman is equal to a Supervisor.

The workman has admitted in his cross-examination that all workmen were being given wages slips, leave books and attendance cards, but these items were not issued to him. This also tells that he was above the workmen and was a Supervisor. Shri Joginder Singh admits in his statement that he used to put his signatures on attendance register but he says that other workmen also signed the same, as at Sr. No. 37 one Pattern Maker Shri Bhagat Singh has signed. This Bhagat Singh has not been produced by the representative of the claimant to corroborate the statement of the claimant as his witness. Shri Joginder Singh was silent and has given no answer to a question put to him during the cross-examination, why the said register was not signed by other workmen. He had no answer to it. He has further admitted that 10 to 12 workmen worked with him in the department and one Meharban looked to his work. Meharban is designated as supervisor. Why could one supervisor be looking after the work of another foreman who is admittedly as good a supervisor as himself. Not a single workman has been produced in support of the contention of Shri Joginder Singh claimant that Shri Joginder Singh was a co-workman with them and was not a supervisor. His solitary statement does not go a long way with him. Shri Joginder Singh has been drawing Rs. 740 as his salary plus 15 per cent as house rent allowance which if totalled comes to Rs. 850 per mensem. With this salary also he does not fall under the category of a workman. Wages register which could easily reveal the wages of the workman clearly, has not been got proved or produced in this Court by Shri Joginder Singh for the reasons best known to him. If other workmen were also drawing salary more than Rs. 500 then it would have been a very important and valuable evidence to prove that Shri Joginder Singh was also a workman and not a supervisor. Non-production or the calling of the wages register is in itself an inference which can be drawn against the claimant in this case. The disparity of the wages would have clearly been established if the said register had been got produced in this Court.

There is a log book copy of which is Ex. MW B-1 to B-3. This log book has been signed by the claimant. According to Shri Naidu, the management witness, only he who was shift incharge in supervisory position was authorised to sign this book and the signature of Shri Joginder Singh are present, which have not been denied as Shift incharge and this fact is also there to prove that shift incharge can only be a supervisor and not a workman as per definition of the Industrial Disputes Act.

Shri Joginder Singh claimant has in his cross-examination agreed that new engineers worked with him. New Engineers could be put only with an experienced and trained person. He could not be believed to be lesser than the rank of a supervisor. Shri Joginder Singh is a diploma-holder in engineering and has got 10 years practical experience to his credit. That is also one point to prove that he could only be supervisor in actual terms of the Industrial Disputes Act. He does not fall in the category of workman.

On the contrary to this it has been argued on behalf of the claimant that he did not have any managerial or administrative authority vesting in him. But that is not sufficient to take him out of the category of supervisor. This is also based on the solitary statement of the affected claimant, himself. It is agreed that his work is not managerial or administrative, but he was definitely a supervisor drawing wages more than Rs. 500. In this way he cannot be fitted in the definition of section 2(s)(4) of the Industrial Disputes Act, 1947, which speaks as follows:—

“Who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either, by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

So by nature of duties this claimant was performing the duties of a supervisor impliedly and he was definitely not a workman.

I, therefore; after discussing this issue in the above manner reach the conclusion that Shri Joginder Singh, workman, was not a workman but admittedly a supervisor or according to the Act. The workman's representative produced 1975-LLJ-Vol. II page 300 Blue Star Limited V/s. N.R. Sharma & others.

In this case their Lordships have also held that the nature of work of the workman has to be seen. Here the workman has said it himself that he did the duties of a workman, whereas the management on the other hand has by oral and documentary evidence proved beyond any shadow of doubt that this claimant was a supervisor in the real meanings of the term and not a workman. I have elaborately discussing it already. This ruling helps the management instead of the claimant in the instant case.

The other ruling produced by the representative of the workman is Haryana Labour Journal 1970 Page 67 (S.C.) between Anand Bazar Patrika (P) Ltd. vs Its workmen.

In this ruling also his Lordship Mr. Bhargava was pleased to draw guidelines of judging the nature of the duties performed by a workman to distinguish him from a supervisor.

So after having gone through deeply into this case I am of the opinion that Shri Joginder Singh is a supervisor and not a workman under the Industrial Disputes Act. So I decide issue No. 2 in favour of the management respondent and against the claimant Shri Joginder Singh.

#### Issue No. 1

Since Issue No. 1 is entirely dependent on issue No. 2 which I have discussed above, no more discussion is needed. Since the claimant has been adjudged as a supervisor and drawing salary more than Rs. 500 per mensem.

This issue No. 1 is also decided against the claimant Shri Joginder Singh and in favour of the respondent management. The dispute is not covered under section 2(s) (iv) of the Industrial Disputes Act and, therefore, bad in law. This issue is decided accordingly.

#### Issue No. 4

This claimant Shri Joginder Singh was admittedly not working in managerial or administrative capacity but that does not take him out of the category of a supervisor under the Industrial Disputes Act. Even if he was not performing the duties of a manager or administrator he was surely working as a supervisor under the Industrial Disputes Act. This issue is decided in favour of the claimant Shri Joginder Singh and against the management.

So while concluding this reference I find that issue No. 1 & 2 as discussed above by me, being in favour of the respondent management issue No. 4 does not help the workman in this reference although it is decided in the favour of claimant Shri Joginder Singh.

I am of the view that this claim is bad in law and this court cannot entertain this reference being between a person who is a supervisor and not a workman according to the Act.

The award is sent back to the Government after deciding the preliminary issues accordingly, holding that the reference is bad in law. There is no need to probe it further on rest of the issues framed. This award may be read in answer of this reference. No order as to costs.

Dated the 14th June, 1980

I.P. CHAUDHRY,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

Endstt. No. 1014, dated 24th June, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

I.P. CHAUDHRY,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

The 21st July, 1980

No. 11(112)-80-3Lab./9040.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Ahuja General Industries, 17-D, Industrial Area, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 34 of 1980

between

THE WORKMEN AND THE MANAGEMENT OF M/S AHUJA GENERAL INDUSTRIES,  
13-D, INDUSTRIAL AREA, FARIDABAD

Present :—

Shri H. R. Dua for the workmen.

Shri Kaliash Chander, for the workmen.

Shri R. C. Sharm for the management.

#### AWARD

1. By order No. ID/FD/27-80/16667, dated 9th April, 1980 the Governor of Haryana referred the following disputes between the management of M/s. Ahuja General Industries, 17-D Industrial Area,

Faridabad and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

(1) Whether the termination of services of Sarvshri Krishan Kumar Johri, Sat Narain, Ram Kishan, Shrimati Vira Wall and Kanta Rani was justified and in order? If not, to what relief they are entitled?

(2) Whether the workmen are entitled to the grant of bonus for the years 1977-78 and 1978-79? If so, with what details?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. Claim statement was filed by the workmen. On the next date of hearing an application signed by 54 workmen was moved by the union that they had held fresh election of the union and also that they had withdrawn the authority given to their representative. On 18th June, 1980 joint application was made by the parties. It was signed on behalf of the workmen, President, Vice-President, General Secretary, Joint Secretary, Secretary, Cashier and two other members of Ahuja General Industries Employees Union. It was prayed in the application that the reference pending for adjudication had been mutually settled by the parties. They also produced settlement Exhibit W-1. The settlement is signed by the workmen. After filing of the settlement Ex-President of the Union submitted an application signed by 21 workmen including himself saying that they had not settled the dispute and requested for adjudication of the demands, and he also stated that no election had taken place. The management filed a list of employees of Ahuja General Industries with total number of 68 persons. They also filed affidavits of these workmen dated 6th July, 1980 in which they deposed that fresh election of their union had taken place and gave names of the office bearers of the Union.

3. I have considered the various aspects of the case. The relevant rule is 58(2)(b) of the Industrial Disputes Punjab Rules, that the memorandum of settlement shall be signed on behalf of the workmen by the President and General Secretary or by five representatives of the workmen. In the instant case the settlement is signed by the President, Vice-President, General Secretary, Secretary, Cashier and two other members. Otherwise also settlement was signed by most of the workmen of the Industry and nearly all of them filed their affidavits. To press the objection only fifteen workmen appeared though they had earlier signed the settlement and put in their affidavits. In case they are taken into consideration, their number is only 22%. Thus 78% of the workmen still support the settlement. In the interest of industrial peace and harmony between the workmen and the management, I consider it desirable that the settlement be accepted. Therefore, on the basis of my above discussions, I give my award in terms of the settlement and there is no dispute now pending for adjudication between the parties. Settlement shall form part of the award.

Dated the 15th July, 1980.

M. C. BHARDWAJ,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 675, dated the 16th July, 1980

Forwarded (four copies along with copies of settlement), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 15th July, 1980.

M. C. BHARDWAJ,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

फार्म "एच" (रूल 58)

मेमोरेण्डम आफ सैटलमेंट इन्डस्ट्रीयल डिस्प्यूट, 1947 की धारा 18(1) के अन्तर्गत

दिनांक 10 जून, 1980

पार्टियों के नाम

.. 1. आहुजा जनरल इन्डस्ट्रीज, फरीदाबाद।

2. आहुजा जनरल इन्डस्ट्रीज के सभी कर्मचारी तथा उनके नुमाइन्दे।

मेनेजमेंट की तरफ से

.. 1. श्री एम. एल. आहुजा (हस्ताक्षर) एम. एल. आहुजा

कर्मचारियों की ओर से

.. 1. श्री कैलाश चन्द्र—प्रेजीडेंट। (हस्ताक्षर) कैलाश चन्द्र

2. श्री हाकिम सिंह—वा. प्रेजीडेंट) हस्ताक्षर हाकिम सिंह

3. श्री प्रेम चन्द—जनरल सेक्रेटरी । (हस्ताक्षर) प्रेम चन्द
4. श्री पी. सदासिवन—प्रो. सेक्रेटरी
5. श्री अनिल कुमार सेक्रेटरी (हस्ताक्षर) अनिल कुमार
6. श्री भजिन्दर कुमार—प्रो. सेक्रेटरी
7. श्री भीम सिंह—केशियर तथा कर्मचारीगण ।

आहुजा जनरल इन्डस्ट्रीज इम्प्लाइज यूनियन के पद अधिकारी

#### संक्षिप्त विवरण

आहुजा जनरल इन्डस्ट्रीज की इम्प्लाइज यूनियन ने जो मांग-पत्र तिथि 21 दिसम्बर, 1979 को मनेजमेन्ट को दिया था और कनसीलेशन आफिसर ने जो अपनी रिपोर्ट सरकार को समझौता हेतु भेजी थी तथा सरकार ने उन की दो मांगों इन्डस्ट्रीयल ट्रिब्यूनल में फैसले के लिये भेजे और ट्रिब्यूनल ने केस को 34 अप्रैल 1980 के अन्तर्गत दर्ज किये। कर्मचारियों ने मनेजमेन्ट को प्रार्थना की कि हमारी दो मांगों बकाया हैं उनको आपस में बैठकर बातचीत के द्वारा निपटाना चाहते हैं, वर्कर यूनियन के नुमाइन्दे तथा मनेजमेन्ट के बीच कई मीटिंगें हुई और आखिर में एक निश्चित फैसले पर पहुंच गये। दोनों पक्षों के नुमाइन्दों ने जो फैसला किया था उसको जताम कर्मचारियों की मीटिंग बुलवाकर बताया और कर्मचारियों ने सहमति प्रकट की और नीचे लिखी शर्तों पर यह समझौता हस्ताक्षरित किया जा रहा है।

#### समझौते की शर्तें

1. कर्मचारियों ने यह स्वीकार किया कि तिथि 21 दिसम्बर, 1979 के डिमान्ड नोटिस में श्री सत नारायण तथा राम किशन का नाम वैसे ही लिखा था उन्होंने फैक्ट्री में कभी काम नहीं किया तथा श्री कृशन कुमार जौहरी, मिस वीरां वाली, मिस कान्ता रानी ने अपना अपना फुल एण्ड फाइनल हिसाब ले लिया है तथा उनका और हमारा मनेजमेन्ट के साथ कोई झगड़ा या कलेम बाकी नहीं है। हम इस मांग को खत्म करते हैं।

2. कर्मचारियों ने यह भी स्वीकार किया कि उनको 1977-78 तथा 1978-79 का बोनस 8.33 प्रतिशत के हिसाब से मिल चुका है तथा उनका मनेजमेन्ट के साथ बोनस के मामले में किसी किसम का झगड़ा बाकी नहीं है तथा कर्मचारी इस मांग को वापिस लेते हैं।

3. कर्मचारी यूनियन के सदस्यों ने तथा सभी कर्मचारियों ने यह भी तय किया कि जो डिमान्ड नोटिस तिथि 21 दिसम्बर, 1979 को मनेजमेन्ट को दिया था वह उसे वापिस लेते हैं।

4. वर्कर यूनियन तथा मनेजमेन्ट ने यह भी तय किया कि मनेजमेन्ट कर्मचारियों की तनखाओं में उचित बढ़ोतरी कर देगी।

(ह.) हाकिम सिंह

(ह.) राध श्याम (ह.) सरगुन राम

5. यह भी तय पाया कि दोनों पार्टियां इस आपसी समझौते पर सहमत होकर एक इकट्ठा प्रार्थना-पत्र माननीय प्रिजाईडिंग आफिसर आफ इन्डस्ट्रीयल ट्रिब्यूनल के समुख प्रस्तुत करते हैं तथा प्रार्थना करते हैं कि वह इस समझौते को स्वीकार करें तथा केस को खारिज कर दें।

कृते: आहुजा जनरल इन्डस्ट्रीज

(हस्ताक्षर) एम. एल. आहुजा

साक्षी : 1. (हस्ताक्षर) R. B. Bhatia

2. (हस्ताक्षर) P. L. Adhlakha.

प्रतिलिपि सूचनार्थ हेतु :—

(1) प्रिजाईडिंग आफिसर, इन्डस्ट्रीयल ट्रिब्यूनल, फरीदाबाद।

(2) लेबर कमिश्नर, चण्डीगढ़।

(3) सेक्रेट्री, गो. आफ हरियाणा, लेबर डिपार्टमेंट, चण्डीगढ़।

(4) लेबर एवं समझौता अधिकारी, फरीदाबाद।

(5) डिप्टी लेबर कमिश्नर, फरीदाबाद।

कर्मचारी तथा उनके नुमाईन्दों के हस्ताक्षर :--

(ह.) कैलाश चन्द्र	(ह.) गुदरी राम
(ह.) प्रेम चन्द शर्मा	(ह.) कमलेश शर्मा
(ह.) हाकिम सिंह	(ह.) सलोचना कुमारी
(ह.) अनिल कुमार	(ह.) रविन्दरन टी. बी.
(ह.) पी. सदासिवन	(ह.) वरिन्दर सिंह
(ह.) भीम सिंह	(ह.) सरगुन राम
(ह.) गजिन्दर कालरा	(ह.) राधे श्याम
(ह.) Inder Raj	(ह.) विजयी राम
(ह.) विश्वा नाथ	(ह.) राम लखन सिंह
(ह.) रामजी लाल	(ह.) अन्तु राम
(ह.) सोमा राजन	(ह.) बिहारी लाल
(ह.) सरसवती	(ह.) कुंज लाल
(ह.) हीरा रानी	(ह.) भूप सिंह
(ह.) जगदीश तिवारी	(ह.) श्री पति
(ह.) दल बहादुर	(ह.) ओम प्रकाश
(ह.) त्रिलोक सिंह भाटिया	(ह.) परस राम
(ह.) प्रकाश चन्द	(ह.) सावल प्रशाद
(ह.) सुनिता रानी	(ह.) पलथंधारी
(ह.) सुनीता शर्मा	(ह.) पलथ धारी
(ह.) मधु बाला	(ह.) किशन देव
(ह.) एलिस	(ह.) बदलू राम
(ह.) राम दरस	(ह.) बासुरा सी
(ह.) सुरेन्दर सिंह	(ह.) मरियामा
(ह.) सतपाल शर्मा	(ह.) सतीश कुमार
(ह.) भगवती प्रशाद	(ह.) राम प्रकाश
(ह.) कविता कुमारी	(ह.) किशन चन्द
(ह.) रमेश कुमार	(ह.) के. चन्द्ररन
(अंगूठा) बलबीर सिंह	(ह.) परमिन्दर सिंह
(अंगूठा) Dev Ram	(ह.) भवतार सिंह
(अंगूठा) ललू राम	(ह.) सतीश कपूर
(ह.) आतम प्रकाश	(ह.) कमल किशोर
(ह.) करन सिंह	(ह.) दीना नाथ शर्मा
(ह.) कान्ता रानी	(ह.) पंचम सिंह
(ह.) त्रिभुवन दत्त	(ह.) किशन बहादुर